THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 17160 OF 2006

Between:

Mallela Ravi Kumar
S/o M.Ram Babu,
Peralipadu (v),
Guntur District

… Petitioner

And:

The State Election Commission,
Rep. by its Secretary,
Buddha Bhavan, Secunderabad,
And others.

… Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 17160 OF 2006

ORAL ORDER :

The petitioner assails the election declaration of the 4th respondent as Sarpanch of Peralipadu Gram Panchayat, Guntur District. The post of Sarpanch of Peralipadu Gram Panchayat is notified to be reserved for persons belonging to Scheduled Castes. Pursuant to the notification issued by the 2nd respondent elections were held on 6.8.2006. The petitioner, the 4th respondent and 8 others contested for the post of Sarpanch. The petitioner and six others had withdrawn from the contest. Consequently three others including the 4th respondent remained in the arena.

According to the petitioner, at the time of scrutiny of nominations "an objection has been taken that the 4th respondent is not eligible to contest to the post of Sarpanch as he does not belong to SC category". The petitioner complains that the objection with regard to the disqualification of the 4th respondent was not considered; elections were held on 6.8.2006 and the 4th respondent declared elected. The petitioner asserts that the 4th respondent contested for the elections to the post of Sarpanch on three occasions including the present one and was elected on two occasions. According to the petitioner in 1995 the post of Sarpanch was reserved for BC category. The 4th respondent then contested claiming to be

a BC candidate. In the year 2001 the post of Sarpanch was un-reserved, whereat also the 4th respondent contested and now, in 2006, it is reserved for SC category and he contested as a SC candidate. It is also asserted that the 4th respondent belongs to 'Mala' caste but has converted to Christianity and therefore is a Backward Class person. Various other facts are set out in para-5 in support of the petitioner's assertion that the 4th respondent belongs to BC community.

The petitioner relies on the judgment of the Supreme Court in ***K. Venkatachalam v A. Swamickan and another ([1])*** to contend that the petitioner need not be relegated to pursue alternative remedies against the election of the 4th respondent as Sarpanch of Peralipadu Gram Panchayat and that this illegality could be adjudicated u/Art. 226 of the Constitution.

The decision of the Supreme Court lays down that having regard to the wide phraseology employed in Art. 226 conferring a plenitudinous jurisdiction on the High Court, even the provisions of Art. 329 would not restrict the jurisdiction of a court exercising power and authority u/Art 229, to consider the validity of an act which is contrary to the provisions of law or violates a constitutional provision and when recourse cannot be had to the provisions of such Act for appropriate relief. This court does have the jurisdiction to adjudicate upon the issue whether an election was held in clear transgression of the mandate of the law. In appropriate and extreme cases the court may also interfere where the transgression is so grave or the consequence of the transgression so detrimental to public interest, as to warrant and justify the exercise of its discretion to interdict the violation. Normally, however, as there is a duly constituted Tribunal of wider jurisdiction available to adjudicate

upon disputes pertaining to elections, this court declines to exercise its extraordinary but discretionary jurisdiction u/Art. 226. This course is not an abdication of its constitutional role, but for efficient management of the court's business and distribution of its adjudicative burdens. This court is ever conscious that it has a heavy docket burden to bear and circumspection must be exercised to canalize cases coming before it to duly constituted adjudicatory Tribunals so that the portals of this court are not clogged to hinder consideration of important issues involving life, liberty and property of citizens against transgression by the State, for those critical cases must receive the vital attention of this institution. Regular disputes including those involving elections could well and profitably be relegated to be adjudicated before the statutory Tribunals as these have exclusive jurisdiction to deal with such disputes.

In the case on hand the petitioner had withdrawn from the race. It is also not his case that he has objected to the contest by the 4th respondent on the ground of 4th respondent's disqualification. The pleadings are vaguely asserted that an objection has been asserted to the disqualification of the 4th respondent. The inference is compelling that the objection to the 4th respondent's qualification has been asserted by some other candidate or person, other than the petitioner.

In the totality of circumstances and in the considered view of this court the petitioner must be relegated to pursue his remedies against the legality of the 4th respondent's election as Sarpanch of Peralipadu Gram Panchayat before the Election Tribunal constituted under the provisions of the AP Panchayat Raj Act. The writ petition is accordingly dismissed with a liberty preserved in the petitioner to pursue available alternative remedies. No order as to costs.

Dt: 18.08.2006 ----------

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Pvsn Justice G.

Raghuram

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[1] (1999) 4 SCC 526